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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,477	12/22/2005	Anthony Kastropfl	VOWL007	8418

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EXAMINER
TOLAN, EDWARD THOMAS

ART UNIT	PAPER NUMBER
3725	

MAIL DATE	DELIVERY MODE
02/06/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/562,477

Applicant(s)

KASTROPLL, ANTHONY

Examiner

EDWARD TOLAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 57-117 is/are pending in the application.
- 4a) Of the above claim(s) 57-97 and 102-117 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 98-101 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election of group II claims 98-101 without traverse in the Election of 10-31-2007 is accepted. Claims 57-97 and 102-117 are hereby withdrawn from consideration. The restriction is made FINAL.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 98,99 and 101 are rejected under 35 U.S.C. 102(b) as being anticipate by Kennedy et al. (3,363,442). Kennedy discloses an apparatus for adjusting a tube (69) diameter comprising a plurality of cylindrical rollers (67) each roller comprising a first and second end along axle (65). A supporting cylinder (25) has a first end flange (27) and a second end flange (29) with at least one end flange being rotationally displaceable (col. 3, lines 40-42). The first end flange and second end flange define a plurality of support apertures with the roller ends supported therein (col. 3, lines 43-54). The first and second ends of the rollers are on a pitch circle of equal diameter (fig. 2) to form a parallel cylindrical array about aperture (61) to allow a tube to pass therethrough. A means (57) adjusts a position of at least one of the end flanges so that the array is skewed (fig. 3). A motor (17) rotates the supporting cylinder (25) through gearing so that the rollers (67) apply force to an external surface of a tube (69). A mounting flange

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(55) comprising a bearing (11) holds the supporting cylinder (25). The mounting flange and motor are attached to a moving frame.

Regarding claims 99 and 101, Gears (49,51) mesh with worm (91) and gear (21) (col. 3, lines 9 and 10). Gear (21) is driven by motor (17) (col. 2, lines 42,43). Motor (93) rotates worm screw (91) through pulley system (95,97,99) which drives frame (89). Therefore the movement of the frame and the supporting cylinder are interrelated by motor means (93) and worm (91).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 100 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al. (3,363,442). Kennedy discloses using a pneumatic cylinder (75) for chuck movement. It would have been obvious to one skilled in the art at the time of invention to substitute pneumatic means for the pulley and electric motor system as it is well known in the tube deforming art that pneumatic and electrical driving means are operable to drive assemblies in tube working machines wherein each drive means gives predictable results. The skilled artisan would have been motivated to change drive means depending upon workplace, power or machine considerations.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Ed Tolan whose telephone number is 571-272-4525. FAX communications should be sent to 571-273-8300.

ED TOLAN  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Ed Tolan', is written over the printed name and title.